

1 SECTION 4. Section 51 of chapter 7 of the General Laws is  
2 hereby repealed.

1 SECTION 6. Chapter 75 of the General Laws is hereby  
2 amended by adding the following section:—

3 Section 46. There shall be at the University of Massachusetts at  
4 Boston an office of dispute resolution under the supervision and  
5 control of a director who shall be appointed by the provost with  
6 the approval of the chancellor and concurrence of the board of  
7 trustees. Said director shall be a person with substantial training  
8 and professional experience in dispute resolution, shall maintain  
9 complete impartiality with respect to the matters coming before  
10 said office of dispute resolution, and shall devote full time to the  
11 duties of the office.

12 Said office of dispute resolution shall be available to assist  
13 agencies and offices of the executive, legislative, and judicial  
14 branches of the commonwealth, as well as any political subdivi-  
15 sion or public instrumentality created by the commonwealth or  
16 any county, city, or town, hereafter referred to as public agencies,  
17 to improve the resolution of disputes that arise within their respec-  
18 tive jurisdictions. Said office is authorized to (a) facilitate the res-  
19 olution of disputes through provision of impartial mediation and  
20 other dispute resolution services; (b) establish standards for the  
21 selection, assignment, and conduct of persons acting on behalf of  
22 said office in the resolution of disputes; (c) conduct educational  
23 programs and provide other services designed to reduce the occur-  
24 rence, scope, complexity, or cost of disputes; (d) design, develop,  
25 or operate dispute resolution programs or to assist public agencies  
26 to improve or extend their existing dispute resolution programs;  
27 and (e) take such other action as will promote and facilitate dis-  
28 pute resolution by public agencies in the commonwealth. The  
29 director may establish reasonable fees to be charged to parties, lit-  
30 igants, or public agencies for the provision of the educational,  
31 consultation, dispute resolution, or other services authorized  
32 herein and may apply for and accept on behalf of the common-  
33 wealth any federal, local, or private grants, bequests, gifts, or con-  
34 tributions to aid in the financing of any of the programs or  
35 activities of the office. Such fees, grants, bequests, gifts, or contri-  
36 butions shall be received by the University of Massachusetts at

37 Boston and deposited in a separate account and shall be expended,  
38 without further appropriation, at the direction of the director, with  
39 the approval of the provost, for the cost of operation of the office,  
40 including personnel. The office may make agreements with public  
41 agencies and officers and may contract with other persons,  
42 including private agencies, corporations, or associations, to carry  
43 out any of the functions and purposes of this section. The office  
44 shall prepare annually a report on the activities of the office,  
45 including all income and expenditures, and shall file said report  
46 with the house and senate committees on ways and means on or  
47 before December 31 of each year.

1 SECTION 7. Section 47 of chapter 94C of the General Laws, as  
2 appearing in the 2002 Official Edition, is hereby amended by  
3 inserting after the words “departments” in line 122 the  
4 following:—

5 Each such district attorney and city, town or state police depart-  
6 ment receiving said funds shall submit a report to the house and  
7 senate committees on ways and means not later than April 1 of  
8 each year detailing the use of drug forfeiture funds and property,  
9 so-called, received pursuant to this section. The report shall  
10 include, but not be limited to, the following: 1) amount of said  
11 funds deposited into the any such special law enforcement trust  
12 funds maintained by said offices and departments; 2) how said  
13 funds were used in the previous fiscal year; and 3) balance of said  
14 trust fund as of March 20 of each year.

1 SECTION 8. Section 39C of chapter 112 of the General Laws,  
2 inserted by section 306 of chapter 26 of the acts of 2003, is hereby  
3 amended by inserting after the first sentence the following sen-  
4 tence:— Such entities shall be deemed retail pharmacies and not  
5 providers of institutional, residential, or long-term care services.

1 SECTION 9. Section 18 of chapter 118G, most recently  
2 amended by section 171 of chapter 149 of the acts of 2004, is  
3 hereby further amended by striking out subsection (o) and  
4 inserting in place thereof the following subsection:—

5 (o) Within the Uncompensated Care Trust Fund, there shall be  
6 established a medical assistance account, administered by the sec-

7 retary of the executive office of health and human services, con-  
8 sisting of any funds directed to the commonwealth from public  
9 entities, and federal reimbursements related to medical assistance  
10 payments funded by this account. All amounts credited to this  
11 account shall be held in trust and shall be available for expendi-  
12 ture by the secretary of the executive office of health and human  
13 services to be used for medical assistance payments to entities  
14 authorized by the general court, and for which a public entity has  
15 contractually agreed to direct funds to said account; provided,  
16 however, that any amount in excess of such medical assistance  
17 payments may be credited to the General Fund; provided, further,  
18 that the amount of all such expenditures shall be subject to annual  
19 approval by the general court. The maximum payments from said  
20 account shall not exceed those permissible for federal reimburse-  
21 ment under Title XIX or Title XXI of the Social Security Act or  
22 any successor federal statute. The comptroller may make pay-  
23 ments, including payments during the accounts payable period, in  
24 anticipation of revenues, including receivables due and col-  
25 lectibles during the months of July and August, and shall establish  
26 procedures for reconciling overpayments or underpayments from  
27 said account; provided, that said procedures shall include, but not  
28 be limited to, appropriate mechanisms for refunding public funds  
29 directed to this account and federal reimbursements upon recoup-  
30 ment of any such overpayments. The executive office of health  
31 and human services shall ensure that the division of health care  
32 finance and policy is informed regarding revenue and expenditure  
33 activity within said account and submit to the secretary of admin-  
34 istration and finance and the house and senate committees on  
35 ways and means a schedule of said payments 10 days prior to any  
36 expenditures, and no funds shall be expended without an enforce-  
37 able agreement with or legal obligation imposed upon a public  
38 entity to make an intergovernmental transfer in an appropriate  
39 amount to said account.

1 SECTION 10. Chapter 175 of the acts of 1998 is hereby  
2 amended by striking out section 25, as amended by section 1 of  
3 chapter 172 of the acts of 1999, and inserting in place thereof the  
4 following section:—

5 Section 25. Sections 3A, 20A, and 21A shall take effect on  
6 December 31, 2008.

1 SECTION 11. Chapter 141 of the acts of 2003 is hereby  
2 amended by striking out section 79 and inserting in place thereof  
3 the following section:—

4 Section 79. Section 11 shall take effect on December 31, 2008.

1 SECTION 12. Notwithstanding any general or special law to  
2 the contrary, the office of the secretary of the commonwealth shall  
3 assign 130 of the code of Massachusetts regulations to the execu-  
4 tive office of health and human services in recognition of the des-  
5 ignation of such executive office, under section 16 of chapter 6A  
6 of the General Laws, as the single state agency authorized to  
7 supervise and administer the state programs under Titles XIX and  
8 XXI of the Social Security Act.

1 SECTION 13. Notwithstanding the provisions of any general or  
2 special law to the contrary, the executive office of health and  
3 human services, pursuant to section 16 of chapter 6A of the  
4 General Laws, acting in its capacity as the single state agency  
5 under Title XIX of the Social Security Act, and other federally  
6 assisted programs administered by said secretariat, and as the  
7 principal agency for all of the agencies within the secretariat, is  
8 authorized to enter into interdepartmental services agreements  
9 with the University of Massachusetts medical school to perform  
10 such activities as the secretary, in consultation with the comp-  
11 troller, determines are appropriate and within the scope of the  
12 proper administration of said Title XIX and other federal funding  
13 provisions to otherwise support the programs and activities of the  
14 executive office. Such activities shall include: (1) provision of  
15 administrative services, including, but not limited to, activities  
16 such as providing the medical expertise to support or administer  
17 utilization management activities, determining eligibility based on  
18 disability, supporting case management activities, and similar ini-  
19 tiatives; (2) consulting services related to quality assurance, pro-  
20 gram evaluation and development, integrity and soundness, and  
21 project management; and (3) activities and services for the pur-  
22 pose of pursuing federal reimbursement or avoiding costs, third

23 party liability, and recouping payments to third parties. Federal  
24 reimbursement for any expenditures made by the University of  
25 Massachusetts medical school relative to federally-reimbursable  
26 services provided by the University under said interdepartmental  
27 service agreements or other contracts with the executive office  
28 shall be distributed to said university. The secretary may negotiate  
29 contingency fees for activities and services related to the purpose  
30 of pursuing federal reimbursement or avoiding costs, and the  
31 comptroller shall be directed to certify said fees and pay upon the  
32 receipt of such revenue, reimbursement, or demonstration of costs  
33 avoided; provided, however, that the secretary shall not pay con-  
34 tingency fees in excess of \$40,000,000 for state fiscal year 2006.  
35 The secretary of health and human services shall submit to the  
36 secretary of administration and finance and the house and senate  
37 committees on ways and means a quarterly report detailing the  
38 amounts of the agreements, the ongoing and new projects under-  
39 taken by the university, the amounts spent on personnel, and the  
40 amount of federal reimbursement and recoupment payments that  
41 said university was able to collect.

1 SECTION 14. Notwithstanding any general or special law to  
2 the contrary, state agencies and direct and subcontracted providers  
3 of health-related services, including purchase-of-service providers  
4 financed from appropriation items for any state agency, shall max-  
5 imize Title XIX and all other federal, state, and private health  
6 insurance coverage available to offset costs to the commonwealth.  
7 The agencies or providers shall collect information from clients,  
8 or from the parent or guardian of a minor receiving services, nec-  
9 essary to determine the extent to which clients may be eligible for  
10 medical assistance benefits under chapter 118E of the General  
11 Laws or are beneficiaries of any health insurance policy. The  
12 agencies or providers shall forward client information collected  
13 under this section to the executive office of health and human  
14 services and such data shall only be used to match against avail-  
15 able databases for the purpose of identifying all sources of poten-  
16 tial payment for health services or health insurance coverage. As  
17 required or permitted by federal law, the executive office of health  
18 and human services shall return the results of any such data  
19 matches to the originating agency, which shall take the appro-

20 priate action to ensure that costs to the commonwealth are mini-  
21 mized. Such actions shall include, but not be limited to, the  
22 agency or provider billing or re-billing all verified third-party  
23 sources. The executive office of administration and finance may  
24 grant an agency or provider an exemption from this section for  
25 good cause. The executive office of health and human services  
26 and the division of procurement within the executive office of  
27 administration and finance shall review regulations, contracting  
28 forms, service delivery reports, and uniform financial reporting  
29 requirements to determine what changes are necessary for the suc-  
30 cessful implementation of this section.

1 SECTION 15. Notwithstanding any general or special law to  
2 the contrary, the executive office of health and human services  
3 may promulgate regulations allowing any dentist participating in  
4 the MassHealth program to limit the number of MassHealth  
5 patients in his practice in accordance with standards or procedures  
6 to be established by the executive office of health and human  
7 services.

1 SECTION 16. Notwithstanding any general or special law to  
2 the contrary, expenditures from the Distressed Provider Expend-  
3 able Trust Fund shall be dedicated to efforts that are designed to  
4 improve and enhance the ability of distressed community  
5 providers to serve populations in need more efficiently and effec-  
6 tively, including, but not limited to, the ability to provide commu-  
7 nity-based care, clinical support and care coordination services,  
8 pharmacy management services or other efforts to create effective  
9 coordination between hospital care and ambulatory care sites in  
10 the community. The secretary of health and human services shall  
11 develop emergency regulations governing the recommended uses  
12 of said fund in partnership with the Massachusetts League of  
13 Community Health Centers and the Massachusetts Hospital Asso-  
14 ciation; provided, however, that the secretary shall provide a  
15 \$285,000 one-time grant from the fund for a community, non-  
16 profit, acute care regional teaching hospital located in Worcester  
17 county affiliated with the University of Massachusetts Memorial  
18 Health Care System; provided further, that the secretary shall pro-  
19 vide a \$750,000 one-time grant from the fund for a hospital

20 located in Hampden county, west of the Connecticut river with  
21 under 100 beds that participates in MassHealth; provided further,  
22 that the secretary shall provide a \$500,000 one-time grant from  
23 the fund for a community health center that serves as a family  
24 practice residency training site for a commonwealth funded med-  
25 ical school and that assumed the primary care services of the  
26 former Worcester City Hospital; provided further, that the secre-  
27 tary shall provide a \$3,250,000 one-time grant from the fund for  
28 an acute care hospital located in Holyoke that is affiliated with a  
29 commonwealth-owned university medical school and that pro-  
30 vides clinical training programs for nurses, allied health profes-  
31 sionals and technicians through affiliations with community  
32 colleges and private universities; provided further, that the secre-  
33 tary shall provide a \$950,000 one-time grant from the fund for a  
34 disproportionate share acute care hospital located in the south-  
35 eastern Massachusetts division of the medical assistance psychi-  
36 atric service area that operates an inpatient psychiatric unit within  
37 the city of Brockton; provided further, that the secretary shall pro-  
38 vide a \$350,000 one-time grant from the fund for a community  
39 health center located in the Codman Square neighborhood of the  
40 Dorchester section of the city of Boston providing health care to  
41 medically underserved patients in the Dorchester section of the  
42 city of Boston, that has formed an integrated health services net-  
43 work to provide access to primary and preventive public health  
44 services; provided further, that the secretary shall provide a  
45 \$350,000 one-time grant from the fund for a community health  
46 center located near the Fields Corner neighborhood of the Dorch-  
47 ester section of the city of Boston, on Dorchester Avenue, pro-  
48 viding health care to medically underserved patients in said  
49 Dorchester section of the city of Boston, that has formed an inte-  
50 grated health services network to provide access to primary and  
51 preventive public health services; provided further, that the secre-  
52 tary shall provide a \$500,000 one-time grant from the fund for an  
53 acute care hospital serving the Melrose and Wakefield communi-  
54 ties that operates a family health services clinic; provide further,  
55 that the secretary shall provide a \$750,000 one-time grant from  
56 the fund for a sole community hospital under the Medicare pro-  
57 gram located in Barnstable county; provided further, that the sec-  
58 retary shall provide a \$750,000 one-time grant from the fund for a

59 non-teaching, community, disproportionate share, acute care hos-  
60 pital located in southeastern Massachusetts, which provides inpa-  
61 tient care to over 5,000 MassHealth or MassHealth HMO patients  
62 per year; provided further, that the secretary shall provide a  
63 \$750,000 one-time grant for Franklin Medical Center in Green-  
64 field; provided further, that the secretary shall provide a \$150,000  
65 one-time grant from the fund for a community health center  
66 serving the towns on the Outer and Lower Cape in Barnstable  
67 County for the purpose of developing a 340B pharmacy program;  
68 provided further, that the secretary shall provide a \$511,000 one-  
69 time grant from the fund for a non-profit, disproportionate share  
70 community acute care hospital with less than 115 beds that oper-  
71 ates an inpatient psychiatric unit licensed by the department of  
72 mental health located in southern Worcester County affiliated with  
73 the University of Massachusetts Memorial Health Care System;  
74 provided further, that the secretary shall provide a \$100,000 one-  
75 time grant from the fund for a community health center located in  
76 the city of Lynn providing health care to medically underserved  
77 and uninsured patients and which provides a 340B pharmacy pro-  
78 gram; provided further, that the secretary shall provide a  
79 \$4,000,000 one-time grant from the fund for statewide providers  
80 with the service area of the Sisters of Providence Health System  
81 and Providence Behavioral Health Hospital; provided further, that  
82 the secretary shall provide a \$500,000 one-time grant from the  
83 fund for a not-for-profit acute care hospital located in the north-  
84 western-most portion of Berkshire County; provided further, that  
85 the secretary shall provide a \$150,000 one-time grant from the  
86 fund to a nonprofit, acute care community hospital located in  
87 Middlesex County that serves a 25 town area extending northwest  
88 of Boston to the New Hampshire border, has less than 160  
89 licensed medical surgical beds, provides inpatient psychiatric  
90 care, and operates a significant hospital-based paramedic pro-  
91 gram; provided further, that the secretary shall provide a  
92 \$2,000,000 one-time grant from the fund for a disproportionate  
93 share hospital provider located in the county formerly known as  
94 Essex county that has a family practice residency program in part-  
95 nership with a federally qualified community health center, which  
96 program enhances the coordination of cost-effective care delivery  
97 in ambulatory settings and at the hospital to underserved popula-

98 tions; provided further, that the secretary shall provide a  
99 \$200,000 one-time grant from the fund for Dimock Community  
100 Health Center located in the Egleston Square neighborhood in the  
101 Roxbury Section of Boston for health care and traditional housing  
102 to medically underserved patients from the Roxbury, Dorchester,  
103 and Jamaica Plain sections of the city of Boston; provided further,  
104 that the secretary shall provide a \$500,000 one-time grant from  
105 the fund for a health care center located in the city of Revere affil-  
106 iated with Massachusetts General Hospital; provided further, that  
107 the secretary shall provide a \$200,000 one-time grant from the  
108 fund for Whittier Street Community Health Center located in the  
109 Roxbury section of Boston for adult and child behavioral health  
110 services to homeless, immigrant and refugees populations; pro-  
111 vided further, that the secretary shall provide a \$1,000,000 one-  
112 time grant from the fund for Wing Memorial Hospital in the town  
113 of Palmer; provided further, that the secretary shall provide a  
114 \$1,000,000 one-time grant from the fund for Mary Lane Hospital  
115 in the town of Ware; provided further, that the secretary shall pro-  
116 vide a \$250,000 one-time grant from the fund to a not-for-profit  
117 long term acute care hospital located the Roxbury section of the  
118 City of Boston; provided further, that the secretary shall provide a  
119 \$3,500,000 one-time grant from the fund for a community health  
120 center located in East Boston which operates both a PACE pro-  
121 gram and a 340B pharmacy program; provided further, that the  
122 secretary shall provide a \$600,000 one-time grant from the fund  
123 for Hubbard Regional Hospital; provided further, that the secre-  
124 tary shall provide a \$250,000 one-time grant from the fund for a  
125 community health center located in the North End section of the  
126 city of Boston; provided further, that the secretary shall provide a  
127 \$400,000 one-time grant from the fund for a community health  
128 center located in the south end of Boston which is the largest  
129 provider of community based mental-health services, and serves  
130 significant homeless and latino populations; provided further, that  
131 the secretary shall provide a \$1,000,000 one-time grant from the  
132 fund for a sole community hospital located in the City of Gardner  
133 providing essential community health services and access to care  
134 for low-income population in northern Worcester county; pro-  
135 vided further, that the secretary shall provide a \$200,000 one-time  
136 grant from the fund to a community health center serving the full

137 range of the underserved population throughout the mid-cape  
138 area; provided further, that the secretary shall provide a  
139 \$5,500,000 one time grant from the fund for a disproportionate  
140 share financially distressed community hospital located in Suffolk  
141 county with a locked inpatient adolescent psychiatric unit that par-  
142 ticipates in the MassHealth program; provided further, that the  
143 secretary shall provide a \$400,000 one-time grant from the fund to  
144 a federally funded section 330 community health center with at  
145 least three community health center sites serving medically under-  
146 served areas of Dorchester and South Boston, including at least  
147 one public housing project; provided further, that the secretary  
148 shall provide a \$750,000 one-time grant from the fund for a  
149 teaching hospital located in central Berkshire County; provided  
150 further, that the secretary shall provide a \$400,000 one-time grant  
151 from the fund for a community health center located in South  
152 Boston which is affiliated with the disproportionate share teaching  
153 hospital in Suffolk County with the highest volume of free care,  
154 which is the primary affiliate of Boston Healthnet, which provides  
155 a comprehensive substance abuse program, and which serves a  
156 growing Latino and Albanian population; provided further, that  
157 the secretary shall provide a \$750,000 one-time grant from the  
158 fund for a non-profit Visiting Nurse Association located in  
159 Boston, that delivers at least 30 per cent of all MassHealth reim-  
160 bursed skilled nursing visits and at least 50 per cent of all  
161 MassHealth reimbursed home health aide services in Suffolk  
162 county; provided further, that the secretary shall provide a  
163 \$2,000,000 one-time grant from the fund for a disproportionate  
164 share teaching hospital located in Hampden County; and provided  
165 further, that the secretary shall provide a \$500,000 one-time grant  
166 from the fund for a hospital located in the city of Everett. The  
167 secretary of the executive office of health and human services  
168 shall file a report not later than November 1, 2005 to the speaker  
169 of the house of representatives, the president of the senate and the  
170 house and senate committees on ways and means describing the  
171 providers funded or to be funded during fiscal year 2006, the  
172 amount expended or to be expended for each provider pursuant to  
173 this section, and the extent to which any portion of such expendi-  
174 tures are eligible for federal reimbursement. Any federal reim-

175 bursements received by the commonwealth for expenditures made  
176 from the fund shall be deposited into said fund.

1 SECTION 17. Notwithstanding any general or special law to  
2 the contrary, the department of mental health, the department of  
3 public health, the executive office of health and human services,  
4 as the single state agency responsible for administering the Med-  
5 icaid program under Title XIX of the Social Security Act, and the  
6 division of health care finance and policy shall take appropriate  
7 action to obtain the maximum amount of federal financial partici-  
8 pation available for amounts paid for low-income care costs at  
9 those mental health and public health facilities determined to be  
10 disproportionate share hospitals in accordance with requirements  
11 of Title XIX of the Social Security Act. Such appropriate action  
12 may include, but shall not be limited to, the establishment of a  
13 separate account within the Uncompensated Care Trust Fund,  
14 established by section 18 of chapter 118G of the General Laws,  
15 for the purpose of making disproportionate share payment adjust-  
16 ments to such qualifying mental health and public health facilities  
17 under relevant division of health care finance and policy regula-  
18 tions and the Title XIX state plan on file with the Centers for  
19 Medicare and Medicaid Services. The executive office of health  
20 and human services, the department of public health, and the  
21 department of mental health may expend amounts transferred to  
22 them from such separate account within the Uncompensated Care  
23 Trust Fund without further appropriation. Any federal funds  
24 obtained as a result of actions taken pursuant to this section shall  
25 be deposited in the General Fund. The state treasurer and the  
26 comptroller shall establish such procedures as may be necessary  
27 to accomplish the purpose of this section, including procedures for  
28 the proper accounting and expenditure of funds under this section.

1 SECTION 18. Notwithstanding any general or special law to  
2 the contrary, during fiscal year 2006 the executive office of health  
3 and human services shall expend from the medical assistance  
4 intergovernmental transfer account within the Uncompensated  
5 Care Trust Fund an amount equal to the actual amount paid for  
6 fiscal year 2005 for a program of MassHealth supplemental pay-  
7 ments to certain publicly operated entities providing Title XIX

8 reimbursable services, directly or through contracts with hospitals  
9 under an agreement with the executive office of health and human  
10 services, relating to such payments and transfers as established in  
11 accordance with Title XIX of the Social Security Act or federal  
12 waivers thereof, federal regulations promulgated thereunder, the  
13 terms of the waiver under section 1115 of the Social Security Act,  
14 state law, and the Medicaid state plan. The funds may be  
15 expended only for payment obligations arising during fiscal year  
16 2006. Such expenditures shall reduce payments from the Uncom-  
17 pensated Care Trust Fund to such entities by an amount compa-  
18 rable to the net revenues received by such entities under this  
19 section. The executive office of health and human services shall  
20 notify the house and senate committees on ways and means if  
21 such expenditures are rendered ineligible for federal reimburse-  
22 ment. All expenditures made pursuant to this section shall be  
23 reported quarterly to the house and senate committees on ways  
24 and means. Amounts so authorized for said expenditure shall be  
25 funded in part through intergovernmental transfers to the com-  
26 monwealth of municipal or other non-federal public funds. The  
27 Boston public health commission and the Cambridge public health  
28 commission shall transfer to said medical assistance intergovern-  
29 mental transfer account an amount equal to 55 per cent of the  
30 gross amounts of supplemental payments made by the executive  
31 office of health and human services under managed care contracts  
32 with the commissions. An amount equal to 9.09 per cent of the  
33 total amount that the Boston and Cambridge public health com-  
34 missions transfer to the medical assistance intergovernmental  
35 transfer account pursuant to this section shall be transferred from  
36 the medical assistance intergovernmental transfer account and  
37 credited to the Distressed Provider Expendable Trust Fund, estab-  
38 lished pursuant to chapter 241 of the acts of 2004.

1 SECTION 19. Notwithstanding the provisions of any general or  
2 special law to the contrary, the executive office of health and  
3 human services and the division of health care finance and policy  
4 shall take any appropriate action to obtain the maximum amount  
5 of federal financial participation available for amounts paid to  
6 hospitals, determined by the division to be disproportionate share  
7 hospitals in accordance with Title XIX requirements, for low

8 income care costs of such hospitals. Such appropriate action may  
9 include, but shall not be limited to, the assessment on hospitals for  
10 their liability to the uncompensated care pool pursuant to chapter  
11 118G of the General Laws. Such appropriate action shall include  
12 the establishment or renewal of an interdepartmental services  
13 agreement between the executive office and the division which  
14 may authorize the division to make deposits into and payments  
15 from an account established for the purposes of this section within  
16 the Uncompensated Care Trust Fund, established by section 18 of  
17 said chapter 118G, or authorize the division to transfer uncompen-  
18 sated care fee revenue collected from hospitals pursuant to said  
19 chapter 118G or funds otherwise made available to said trust fund  
20 by the general court, to the executive office for the purposes of  
21 making disproportionate share adjustment payments to hospitals  
22 qualifying for such payments in accordance with the common-  
23 wealth's Title XIX state plan and relevant provisions of Title XIX.  
24 The executive office may expend amounts transferred to it from  
25 the Uncompensated Care Trust Fund by the division under such  
26 interdepartmental services agreement without further appropria-  
27 tion. In no event shall the amount of money assessed upon each  
28 hospital exceed the hospital's gross liability to the uncompensated  
29 care trust fund as determined by the division of health care  
30 finance and policy pursuant to said section 18 of said chapter  
31 118G. Any federal funds obtained as a result of said actions shall  
32 be deposited into the General Fund. The offices of the state trea-  
33 surer and the comptroller shall establish such procedures as may  
34 be necessary to accomplish the purpose of this section, including  
35 procedures to facilitate the expeditious assessment, collection, and  
36 expenditure of funds pursuant to this section.

1 SECTION 20. Notwithstanding any general or special law to  
2 the contrary, in hospital fiscal year 2006, the division of health  
3 care finance and policy may administer, as provided in this  
4 section, the Uncompensated Care Trust Fund established by  
5 section 18 of chapter 118G of the General Laws, to collect assess-  
6 ments as specified in section 1 of said chapter 118G for deposit to  
7 the fund, and make certain payments to acute hospitals and com-  
8 munity health centers from the uncompensated care pool to offset

9 the costs of services provided to uninsured or low income resi-  
10 dents. Said division and the executive office of health and human  
11 services may promulgate regulations to implement this section.

12 The division, in consultation with the executive office, shall  
13 ensure that assessment liability to the fund and payments from the  
14 uncompensated care pool are structured in a manner that would  
15 secure for the General Fund the maximum allowable federal reim-  
16 bursement under Title XIX, XXI, or any successor federal law.

17 In hospital fiscal year 2006, the total liability of all acute care  
18 hospitals to the fund shall be \$160,000,000. The division shall  
19 calculate an assessment percentage rate by dividing \$160,000,000  
20 by the projected annual aggregate private sector charges in the  
21 fiscal year for all acute care hospitals. Each acute care hospital's  
22 liability to the fund shall be equal to the product of the percentage  
23 rate and its private sector charges.

24 In hospital fiscal year 2006, the total surcharge liability of sur-  
25 charge payers to the Uncompensated Care Trust Fund shall be  
26 \$160,000,000. The surcharge amount for each surcharge payer  
27 shall be equal to the product of: (a) the surcharge percentage; and  
28 (b) amounts paid for services of an acute hospital or ambulatory  
29 surgical center by each surcharge payer. The division shall calcu-  
30 late the surcharge percentage by dividing \$160,000,000 by the  
31 projected annual aggregate payments subject to surcharge, as  
32 defined in said section 1 of said chapter 118G.

33 All Title XIX federal financial participation revenue generated  
34 by hospital payments funded by the Uncompensated Care Trust  
35 Fund, whether the payments are made by the division or the exec-  
36 utive office, shall be credited to the General Fund.

37 All hospital payments made pursuant to this section shall be  
38 subject to federal approval and conditioned on the receipt of full  
39 federal financial participation. All such payments shall be estab-  
40 lished in accordance with Title XIX of the Social Security Act, or  
41 any successor federal law, any regulations promulgated there-  
42 under, and the commonwealth's Title XIX state plan.

43 The division shall calculate an annual payment liability from  
44 the uncompensated care pool to each acute care hospital for fiscal  
45 year 2006. In determining the liability amount, the division shall  
46 (a):

47 (1) calculate each hospital's actual free care cost for the 12-  
48 month period from October 1, 2003 to September 30, 2004 by

49 using each hospital's actual submitted free care charges to the  
50 division on the UC-04 times its ratio of costs to charges for pool  
51 fiscal year 2004;

52 (2) project each hospital's free care costs above for Pool Fiscal  
53 Year 2005 by using a cost growth factor of 7.6 per cent;

54 (3) project each hospital's total free care costs for pool fiscal  
55 year 2006 by multiplying each hospital's pool fiscal year 2005  
56 projected free care costs from subclause (2) by a cost growth  
57 factor of 7.6 per cent; and

58 (4) take into account such factors as the financial burden of  
59 hospitals that provide proportionately the largest volume of free  
60 care and the situation of any free-standing pediatric hospital with  
61 a disproportionately low volume of Title XVIII payments; and

62 (b) allocate the available funds in a manner that pays to each  
63 hospital a fixed percentage of its projected free care costs for hos-  
64 pital fiscal year 2006, as determined by the division using prior  
65 year data and considering the total funds available for the pur-  
66 pose; provided, however, that the fixed percentage shall not be  
67 less than 85 per cent of free care costs as defined in said section 1  
68 of said chapter 118G for the two disproportionate share hospitals  
69 with the highest relative volume of free care costs in hospital  
70 fiscal year 2003, and not less than 88 per cent of free care costs,  
71 as defined in said section 1 of said chapter 118G, for the 14 acute  
72 hospitals with the next highest relative volume of free care costs  
73 in that year; provided further, that in order to identify said 16 hos-  
74 pitals, the division shall rank all hospitals based on the percentage  
75 of each hospital's free care costs divided by the total free care  
76 costs of all hospitals in the commonwealth. All other acute care  
77 hospitals shall receive the highest possible percentage of free care  
78 costs given available remaining funds. The hospital fiscal year  
79 2006 annual liability amount to each hospital shall be funded by  
80 the trust fund; provided, however, that the liability may be satis-  
81 fied through either a disproportionate share payment or adjust-  
82 ment to Title XIX service rate adjustment payment, or  
83 combination thereof, in accordance with the terms provided for in  
84 an agreement entered into by an acute care hospital and the execu-  
85 tive office. The comptroller, in consultation with the division and  
86 the executive office, shall transfer funds from the trust fund to the  
87 executive office for the purpose of the Title XIX service rate  
88 adjustment payments.

89 The executive office may use other federally-permissible  
90 funding mechanisms available for publicly-operated hospitals and  
91 hospitals with an affiliation with a publicly-operated health care  
92 entity to reimburse up to \$70,000,000 of uncompensated care  
93 costs at the hospitals using sources distinct from the funding made  
94 available to the trust fund under this section.

95 The executive office shall make payments from the uncompen-  
96 sated care pool for services provided by community health centers  
97 to low income residents. The executive office shall structure such  
98 payments to maximize allowable federal reimbursement under  
99 Title XIX. Pursuant to section 117 of chapter 140 of the Acts of  
100 2003, all Title XIX federal financial participation revenue gener-  
101 ated by community health center payments funded by the Uncom-  
102 pensated Care Trust Fund, whether the payments are made by the  
103 division or the executive office, shall be retained in a separate  
104 account within the Uncompensated Care Trust Fund and  
105 expended, without further appropriation, for uncompensated care  
106 pool payments to community health centers, in addition to the  
107 amount specified in the following paragraph.

108 In hospital fiscal year 2006, \$466,000,000 from the trust fund  
109 shall be credited to the uncompensated care pool for payments to  
110 acute hospitals provided for herein. In addition to the federal  
111 financial participation to be retained in, and expended from, the  
112 trust fund for community health centers pursuant to the preceding  
113 paragraph of this section, \$56,000,000 from the trust fund shall be  
114 credited to the pool for payments to community health centers  
115 provided for in this section; and \$4,000,000 shall be credited for  
116 administrative expenses, including demonstration projects pur-  
117 suant to sections 21 and 22 of chapter 47 of the acts of 1997, as  
118 amended by sections 156, 157, and 158 of chapter 184 of the acts  
119 of 2002.

120 In hospital fiscal year 2006, the office of the inspector general  
121 is hereby authorized to continue to expend funds appropriated in  
122 chapter 240 of the acts of 2004 from the Uncompensated Care  
123 Trust Fund for the costs associated with maintaining a pool audit  
124 unit within said office. The unit shall continue to oversee and  
125 examine the practices in emergency rooms of all Massachusetts'  
126 hospitals concerning the care of the uninsured and the resulting  
127 free care charges. The inspector general shall submit a report to

128 the house and senate committees on ways and means on the  
129 results of the audits and any other completed analyses not later  
130 than March 1, 2006. For the purposes of the audits, allowable free  
131 care services shall be as provided in chapter 118G of the General  
132 Laws and any applicable regulations

1 SECTION 21. Notwithstanding any general or special law to  
2 the contrary, in fiscal year 2006, the division of health care  
3 finance and policy, herein after referred to as the division, shall  
4 establish nursing facility Medicaid rates, payable out of the Health  
5 Care Quality Improvement Trust Fund, established under section  
6 2EEE of chapter 29 of the General Laws, effective July 1, 2005  
7 through June 30, 2006 that cumulatively total \$288,500,000 more  
8 than the annual payment rates established by the division under  
9 the rates in effect as of June 30, 2002, as mandated under section  
10 1 of chapter 42 of the acts of 2003. The division shall adjust per  
11 diem rates to reflect any reductions in medicaid utilization. Pay-  
12 ments from the fund shall be allocated in the following manner in  
13 fiscal year 2006:

14 (1) effective July 1, 2005, an annual amount of \$99,000,000 in  
15 the aggregate to fund the use of 2000 base year cost information  
16 for rate determination purposes; provided, that \$9,000,000 of said  
17 amount shall be expended for purposes of reimbursing nursing  
18 facilities for up to ten bed hold days for patients of the facility on  
19 medical leaves of absence;

20 (2) effective July 1, 2005, an annual amount of \$122,500,000  
21 for enhanced payment rates to nursing homes;

22 (3) effective July 1, 2005, an annual amount of \$50,000,000 to  
23 fund a rate add-on for wages, hours and benefits and related  
24 employee costs of direct care staff of nursing homes. As a condi-  
25 tion for such rate add-on, the division shall require that each  
26 nursing home document to the division that such funds are spent  
27 only on direct care staff by increasing the wages, hours and bene-  
28 fits of direct care staff, increasing the facility's staff-to-patient  
29 ratio, or by demonstrably improving the facility's recruitment and  
30 retention of nursing staff to provide quality care, which shall  
31 include expenditure of funds for nursing facilities which docu-  
32 ment actual nursing spending that is higher than the median  
33 nursing cost per management minute in the base year used to cal-

34 culate Medicaid nursing facility rates. A facility's direct care staff  
35 shall include any and all nursing personnel including registered  
36 nurses, licensed practical nurses, and certified nurses' aides hired  
37 by the facility from any temporary nursing agency or nursing pool  
38 registered with the department of public health. The division shall  
39 credit wage increases that are over and above any previously col-  
40 lectively bargained for wage increases. In monitoring compliance  
41 for this rate add-on, the division's regulations shall adjust any  
42 spending compliance test to reflect any Medicaid nursing facility  
43 payment reductions, including, but not limited to, rate reductions  
44 imposed on or after October 1, 2002. The expenditure of these  
45 funds shall be subject to audit by the division in consultation with  
46 the department of public health and said executive office. In  
47 implementing this section, the division shall consult with the  
48 Nursing Home Advisory Council;

49 (4) effective July 1, 2005, an annual amount of \$17,000,000 to  
50 fund rate adjustments for reasonable capital expenditures by  
51 nursing homes, giving priority to nursing homes located or con-  
52 structed in under-bedded areas as determined by said executive  
53 office, in consultation with the division of health care finance and  
54 policy, that meet quality standards established by said executive  
55 office in conjunction with the department of public health and the  
56 division for the purposes of encouraging the upgrading and main-  
57 tenance of quality of care in nursing homes, and to fund rate  
58 adjustments to eligible nursing homes that meet utilization stan-  
59 dards established by said executive office in consultation with the  
60 division for the purpose of reducing unnecessary nursing home  
61 admissions and facilitating the return of nursing home residents to  
62 non-institutional settings;

63 (5) \$300,000 for the purposes of an audit of funds distributed  
64 pursuant to clause (3). The division, in consultation with the  
65 department of public health and with the assistance of said execu-  
66 tive office, shall establish penalties sufficient to deter noncompli-  
67 ance to be imposed against any facility that expends any or all  
68 monies in violation of clause (3), including but not limited to  
69 recoupment, assessment of fines or interest. The division shall  
70 report to the house and senate committees on ways and means not  
71 later than October 1, 2006 a preliminary analysis of funds

72 expended pursuant to clause (3) in fiscal year 2006 and a descrip-  
73 tion and timeline for auditing of these funds;

74 (6) \$250,000 to fund expenses at the division related to the  
75 implementation and administration of section 25 of chapter 118G  
76 of the General Laws;

77 (7) an amount sufficient to implement the provisions of  
78 section 622 of chapter 151 of the acts of 1996;

79 The comptroller shall transfer from the Health Care Security  
80 Trust Fund to the Health Care Quality Improvement Trust Fund on  
81 the first business day of each quarter, the amount indicated by the  
82 division and said executive office to provide the appropriate rate  
83 increases to nursing homes; and provided further, that any addi-  
84 tional funds that may become available in the Trust due to  
85 decreased Medicaid utilization shall be spent on further enhanced  
86 rates, including, but not limited to, a per-diem rate add-on for  
87 large medicaid providers as specified in 114.2 CMR 6.00 (10) (a)  
88 as in effect on September 1, 2003.

1 SECTION 22. Notwithstanding any general or special law to  
2 the contrary, in order to maintain the fiscal viability of the subsi-  
3 dized catastrophic prescription drug insurance program, here-  
4 inafter referred to as the "prescription advantage program",  
5 authorized by section 39 of chapter 19A of the General Laws, cost  
6 sharing required of enrollees in the form of co-payments, pre-  
7 miums, and deductibles, or any combination thereof, shall be  
8 adjusted by the department of elder affairs to reflect price trends  
9 for outpatient prescription drugs, as determined by the secretary  
10 of elder affairs. Beginning January 1, 2006, in addition to the eli-  
11 gibility requirements set forth in said section 39 of chapter 19A,  
12 to be considered eligible for the prescription advantage program,  
13 individuals who receive Medicare and are applying for, or are then  
14 enrolled in, the prescription advantage program shall also be  
15 enrolled in a Medicare Part D plan, or in a Medicare Advantage  
16 plan if that plan provides prescription drug benefits equivalent to  
17 or better than Medicare Part D. In addition to the eligibility  
18 requirements set forth in section 39 of chapter 19A, to be consid-  
19 ered eligible for the prescription advantage program, individuals  
20 who receive Medicare and are applying for, or are then enrolled  
21 in, the prescription advantage program, who may qualify for the

22 low-income subsidy, so-called, provided under the Medicare Pre-  
23 scription Drug, Improvement and Modernization Act of 2003,  
24 hereinafter referred to as “MMA”, Subpart P - Premiums and cost-  
25 sharing subsidies for low-income individuals shall apply for those  
26 subsidies. To the extent permitted by MMA and regulations pro-  
27 mulgated thereunder, and all other applicable federal law, the pre-  
28 scription advantage program may apply on behalf of a member for  
29 enrollment into a Medicare Part D plan or for the low-income sub-  
30 sidy provided under MMA. Beginning January 1, 2006, for  
31 enrollees who qualify for Medicare Part D, the prescription advan-  
32 tage program will provide a supplemental source of financial  
33 assistance for prescription drug costs, hereinafter referred to as  
34 “supplemental assistance” in lieu, of the catastrophic prescription  
35 drug coverage provided pursuant to said section 39 of chapter  
36 19A. The prescription advantage program will provide supple-  
37 mental assistance for premiums, deductibles, payments, and co-  
38 payments required by the Part D plan or Medicare Advantage  
39 plan. The department shall establish the amount of the supple-  
40 mental assistance it will provide enrollees based on a sliding  
41 income scale and the coverage provided by the enrollees’ Part D  
42 or Medicare Advantage plan. Residents of the commonwealth who  
43 are not eligible for Medicare will continue to be eligible for the  
44 prescription advantage program pursuant to said section 39 of  
45 chapter 19A.

1 SECTION 23. Notwithstanding any general or special law to  
2 the contrary, the board of trustees for the University of Massachu-  
3 setts system and the president of the University are hereby autho-  
4 rized and directed to establish a 2-year pilot program for  
5 out-of-state tuition retention at the flagship campus of the Univer-  
6 sity at Amherst. The board shall promulgate regulations to allow  
7 the administration of the Amherst campus to retain, in fiscal years  
8 2006 and 2007, all tuition paid by students who are not residents  
9 of Massachusetts. The regulations shall ensure that no resident of  
10 Massachusetts is denied admission to the Amherst campus as a  
11 result of the tuition retention pilot project. The board of trustees  
12 for the University system shall issue a report on the progress of  
13 said initiative no later than February 1, 2006 and 2007 to the  
14 house and senate chairs of the joint committee on education, arts,

15 and humanities, and the chairs of the house and senate committees  
16 on ways and means. The report shall include the number of out-  
17 of-state students attending the school, the amount of tuition rev-  
18 enue retained under the program, and any programs or initiatives  
19 funded with the retained revenue.

20 Notwithstanding any general or special law to the contrary, the  
21 board of higher education is hereby authorized and directed to  
22 establish a two year pilot program for out of state tuition retention  
23 at the Massachusetts College of Liberal Arts; provided further,  
24 that said regulations shall ensure that no resident of Massachusetts  
25 is denied admission to the Massachusetts College of Liberal Arts  
26 as a result of said tuition retention project. The board shall issue a  
27 report on the progress of said initiative no later than February 1,  
28 2006 and 2007 to the house and senate chairs of the joint com-  
29 mittee on education, arts and humanities, and the chairs of the  
30 house and senate ways and means committees. Said report shall  
31 include the number of out of state students attending said college,  
32 the amount of tuition retained under said program, and the pro-  
33 grams or initiatives funded with said retained revenue.

34 Notwithstanding any general or special law to the contrary, for  
35 employees of public higher education institutions who are paid  
36 from tuition retained pursuant to this section, fringe benefits shall  
37 be funded as if those employees’ salaries were supported by state  
38 appropriations. This section shall apply only to fringe benefits  
39 associated with salaries paid from tuition retained by the boards of  
40 trustees of public higher education institutions as a direct result of  
41 the implementation of this section.

1 SECTION 24. Notwithstanding any general or special law to  
2 the contrary, the comptroller shall, in consultation with the office  
3 of the state treasurer, the executive office for administration and  
4 finance, and the executive office of health and human services,  
5 develop a schedule for making a series of transfers not to exceed  
6 \$171,900,000 from the General Fund to the Uncompensated Care  
7 Trust Fund for the purpose of making revenues available for the  
8 administration of the uncompensated care pool, established under  
9 subsection (d) of section 18 of chapter 118G of the General Laws,  
10 as appearing in the 2002 Official Edition. Said schedule shall  
11 make said transfers in increments as deemed appropriate to meet

12 the cash flow needs of the commonwealth and said uncompensated care pool; provided, that said transfers shall not begin before  
13 October 1, 2005 and shall be completed on or before June 30,  
14 2006.

1 SECTION 25. Notwithstanding the provisions of any general or  
2 special law to the contrary, the comptroller shall, in consultation  
3 with the office of the state treasurer, the executive office for  
4 administration and finance, and the executive office of health and  
5 human services, develop a schedule for transferring the unex-  
6 pended balance from account 4000-0896 in the state accounting  
7 system to the Uncompensated Care Trust Fund for the purpose of  
8 making revenues available for the administration of the uncom-  
9 pensated care pool, established under subsection (d) of section 18  
10 of chapter 118G of the General Laws, and pursuant to the provi-  
11 sions of this act. Said schedule shall make said transfers in incre-  
12 ments as deemed appropriate to meet the cash flow needs of the  
13 commonwealth and said uncompensated care pool; provided, that  
14 said transfers shall not begin before October 1, 2005 and shall be  
15 completed on or before June 30, 2006.

1 SECTION 26. Notwithstanding any general or special law to  
2 the contrary, the comptroller shall transfer on or before October 1,  
3 2005, the greater of \$30,000,000 or one-twelfth of the total expen-  
4 ditures to be made to hospitals and community health centers pur-  
5 suant to this act, from the General Fund to the Uncompensated  
6 Care Trust Fund established pursuant to section 18 of chapter  
7 118G of the General Laws, for the purpose of making initial gross  
8 payments to qualifying acute care hospitals for the hospital fiscal  
9 year beginning October 1, 2005. Said payments shall be made,  
10 without further appropriation, to hospitals prior to, and in antici-  
11 pation of, the payment by hospitals of their gross liability to the  
12 Uncompensated Care Trust Fund. The comptroller shall transfer  
13 from the Uncompensated Care Trust Fund to the General Fund not  
14 later than June 30, 2006, the amount of the transfer authorized  
15 herein and any allocation thereof as certified by the commissioner  
16 of the division of health care finance and policy.

1 SECTION 27. Notwithstanding any general or special law to  
2 the contrary, during fiscal year 2006, the comptroller shall transfer  
3 from the Health Care Security Trust, established under chapter  
4 29D of the General Laws, to the General Fund an amount equal to  
5 100 per cent of the total of all payments received by the common-  
6 wealth in fiscal year 2006 pursuant to the master settlement agree-  
7 ment in the action known as *Commonwealth of Massachusetts v.*  
8 *Phillip Morris, Inc. et. al.*, Middlesex Superior Court, No. 95-  
9 7378, and 50 per cent of the earnings generated in fiscal year 2006  
10 from the Health Care Security Trust as certified by the comp-  
11 troller pursuant to paragraph (f) of section 3 of chapter 29D of the  
12 General Laws for certain health care expenditures appropriated in  
13 section 2.

1 SECTION 28. Notwithstanding any general or special law to  
2 the contrary, pension benefits formerly funded through item 0612-  
3 2000 in fiscal year 2004 shall be funded from the Pension  
4 Reserves Investment Trust Fund, pursuant to section 22 of chapter  
5 32 of the General Laws. The state treasurer shall report to the  
6 house and senate committees on ways and means not later than  
7 November 15, 2005 on the benefits funded pursuant to this  
8 section. Said report shall list the amount of benefit received by  
9 each individual through this funding in fiscal year 2005 and the  
10 amount of benefit projected to be received by each individual  
11 through this funding in fiscal year 2006.

1 SECTION 29. Notwithstanding the provisions of any general or  
2 special law to the contrary, the amounts transferred to the Com-  
3 monwealth's Pension Liability Fund, pursuant to section 22C of  
4 chapter 32 of the General Laws shall be made available to meet  
5 the Commonwealth's obligations pursuant to said section 22C,  
6 including retirement benefits payable by the state employees' and  
7 the state teachers' retirement systems, the costs associated with a  
8 three per cent cost-of-living adjustment pursuant to the provisions  
9 of section 102 of said chapter 32, the reimbursement of local  
10 retirement systems for previously authorized cost-of-living adjust-  
11 ments pursuant to said section 102, and for the costs of increased  
12 survivor benefits pursuant to section 101 of said chapter 32. Sub-  
13 ject to rules and regulations promulgated by the treasurer, the state

14 retirement board and each city, town, county, or district shall  
15 verify the cost of said obligations and the treasurer may make  
16 payments therefor upon a transfer of funds as hereinafter pro-  
17 vided, to reimburse certain cities and towns for pensions to retired  
18 teachers, and including any other obligations which the common-  
19 wealth has assumed on behalf of any retirement system other than  
20 the state employees' or state teachers' retirement systems, and  
21 including the commonwealth's share of the amounts to be appro-  
22 priated pursuant to section 22B of said chapter 32 and the  
23 amounts to be appropriated pursuant to clause (a) of the last para-  
24 graph of section 21 of chapter 138 of the General Laws. All pay-  
25 ments for the purposes herein described shall be made only  
26 pursuant to distribution of monies from said fund, and any such  
27 distribution and the payments for which distributions are required  
28 shall be detailed in a written report filed quarterly by the commis-  
29 sioner of administration with the house and senate committees on  
30 ways and means and the joint committee on public service in  
31 advance of such distribution; provided, that such distributions  
32 shall not be made in advance of the date on which any payment is  
33 actually to be made. Any request for distribution from said fund  
34 shall not be in excess of the amount necessary to provide suffi-  
35 cient monies to make all payments for the purposes herein before  
36 described. The state retirement board is authorized to expend an  
37 amount for the purposes of the board of higher education's  
38 optional retirement program pursuant to section 40 of chapter 15A  
39 of the General Laws. To the extent that the amount transferred  
40 pursuant to section 5B of chapter 29 of the General Laws exceeds  
41 the amount necessary to adequately fund the annual pension oblig-  
42 ations, the excess amount shall be credited to the Pension  
43 Reserves Investment Trust Fund for the purpose of reducing the  
44 unfunded pension liability of the commonwealth.

1 SECTION 30. Notwithstanding any general or special law to  
2 the contrary, on or before June 30, 2006, the comptroller shall  
3 transfer \$380,000,000 from the Commonwealth Stabilization  
4 Fund, established pursuant to section 2H of chapter 29 of the  
5 General Laws, to the General Fund.

1 SECTION 31. Notwithstanding any general or special law to  
2 the contrary, for fiscal years 2006 and thereafter, the total amount  
3 allocated for distribution to cities and towns pursuant to  
4 section 35 of chapter 10 of the General Laws shall be the sum of  
5 the amount distributed in fiscal year 2005 and: (i) in fiscal year  
6 2006, 45 per cent of the difference between the fiscal year 2005  
7 distribution and the amount that would otherwise be payable; (ii)  
8 in fiscal year 2007, 60 per cent of the difference between the  
9 fiscal year 2005 distribution and the amount that would otherwise  
10 be payable; (iii) in fiscal year 2008, 80 per cent of the difference  
11 between the 2005 distribution and the amount that would other-  
12 wise be payable. For fiscal year 2009 and thereafter the distribu-  
13 tion of lottery proceeds shall be determined pursuant to section 35  
14 of chapter 10 of the General Laws.

1 SECTION 32. (a) Upon the request of the board of selectmen in  
2 a town, the city council in a plan E city or the mayor in any other  
3 city, the department of revenue may recalculate the minimum  
4 required local contribution, as defined in section 2 of chapter 70  
5 of the General Laws in the fiscal year ending June 30, 2006.  
6 Based on the criteria in this section, the department shall recalcu-  
7 late the minimum required local contribution for a municipality's  
8 local and regional schools and shall certify the amounts calculated  
9 to the department of education.

10 (b) A city or town that used qualifying revenue amounts in a  
11 fiscal year which shall not be available for use in the next fiscal  
12 year or that shall be required to use revenues for extraordinary  
13 non school-related expenses for which it did not have to use rev-  
14 enues in the preceding fiscal year or that has an excessive certified  
15 municipal revenue growth factor which is also greater than or  
16 equal to 1.5 times the state average municipal revenue growth  
17 factor may appeal to the department of revenue not later than  
18 October 1, 2005 for an adjustment of its minimum required local  
19 contribution and net school spending.

20 (c) If a claim is determined to be valid, the department of rev-  
21 enue may reduce proportionately the minimum required local con-  
22 tribution amount based on the amount of shortfall in revenue or  
23 based on the amount of increase in extraordinary expenditures in

24 the current fiscal year, but no adjustment to the minimum required  
25 local contribution on account of an extraordinary expense in the  
26 budget for the fiscal year ending on June 30, 2006 shall affect the  
27 calculation of the minimum required local contribution in subse-  
28 quent fiscal years. Qualifying revenue amounts shall include, but  
29 not be limited to, extraordinary amounts of free cash, overlay sur-  
30 plus and other available funds.

31 (d) If, upon submission of adequate documentation, the depart-  
32 ment of revenue determines that the municipality's claim  
33 regarding an excessive municipal revenue growth factor is valid,  
34 the department shall recalculate the municipal revenue growth  
35 factor and the department of education shall use the revised  
36 growth factor to calculate the preliminary local contribution, the  
37 minimum required local contribution and any other factor that  
38 directly or indirectly uses the municipal revenue growth factor.  
39 Any relief granted as a result of an excessive municipal revenue  
40 growth factor shall be a permanent reduction in the minimum  
41 required local contribution.

42 (e) Upon the request of the board of selectmen in a town; the  
43 city council in a plan E city or the mayor in any other city; or in a  
44 majority of the member municipalities of a regional school district  
45 which used qualifying revenue amounts in a fiscal year that shall  
46 not be available for use in the next fiscal year shall appeal to the  
47 department of revenue not later than October 1, 2005 for an  
48 adjustment to its net school spending requirement. If the claim is  
49 determined to be valid, the department of revenue shall reduce the  
50 net school spending requirement based on the amount of the short-  
51 fall in revenue and reduce the minimum required local contribu-  
52 tion of member municipalities accordingly. Qualifying revenue  
53 amounts shall include, but not be limited to, extraordinary  
54 amounts of excess and deficiency, surplus and uncommitted  
55 reserves.

56 (f) If the regional school budget has already been adopted by  
57 two-thirds of the member municipalities then, upon a majority  
58 vote of the member municipalities, the regional school committee  
59 shall adjust the assessments of the member municipalities in  
60 accordance with the reduction in minimum required local contri-  
61 butions approved by the department of revenue or the department  
62 of education in accordance with this section.

63 (g) Notwithstanding paragraph (14) of section 3 of chapter 214  
64 of the General Laws or any other general or special law to the  
65 contrary, the amounts so determined shall be deemed to be the  
66 minimum required local contribution described in chapter 70 of  
67 the General Laws. The house and senate committees on ways and  
68 means and the joint committee on education, arts and humanities  
69 shall be notified by the department of revenue and the department  
70 of education of the amount of any reduction in the minimum  
71 required local contribution amount.

72 (h) If a city or town has an approved budget that exceeds the  
73 recalculated minimum required local contribution and net school  
74 spending amounts for its local school system or its recalculated  
75 minimum required local contribution to its regional school dis-  
76 tricts as provided by this section, the local appropriating authority  
77 shall determine the extent to which the community shall avail  
78 itself of any relief authorized under this section.

79 (i) The amount of financial assistance due from the common-  
80 wealth in fiscal year 2006 under said chapter 70 or any other law  
81 shall not be changed on account of any redetermination of the  
82 minimum required local contribution under this section.

83 (j) The department of revenue and the department of education  
84 shall issue guidelines for their respective duties under this section.

1 SECTION 35. Paragraph (a) of part B of section 3 of chapter 62  
2 of the General Laws, as appearing in the 2002 Official Edition, is  
3 hereby amended by striking out subparagraph (13) and inserting in  
4 place thereof the following paragraph:—

5 (13) An amount equal to the amount of the charitable contribu-  
6 tion deduction allowed or allowable to the taxpayer under  
7 section 170 of the Code; provided, however, that, in taxable years  
8 beginning on or after January 1, 2004, no such deduction shall be  
9 allowed in any taxable year unless the personal exemptions pro-  
10 vided in subparagraph (A) of subdivision (1) of subsection (b) of  
11 this section, subparagraph (A) of subdivision (1A) of subsec-  
12 tion (b) of this section, and subparagraph (A) of subdivision (2) of  
13 subsection (b) of this section for such taxable year are the max-  
14 imum allowable amounts set forth in said subparagraphs; and pro-  
15 vided further, that notwithstanding said section 170 of the Code,  
16 no deduction shall be allowed for contributions of household

17 goods or used clothing, as those items are recognized under said  
18 section 170 of the Code. All requirements, conditions and limita-  
19 tions applicable to charitable contributions under the Code shall  
20 apply for purposes of determining the amount of the deduction  
21 under this subparagraph, except that taxpayers shall not be  
22 required to itemize their deductions in their federal income tax  
23 returns.

24 Notwithstanding any special or general law to the contrary, the  
25 provisions of this section shall not take effect until such time as  
26 the department of revenue has furnished a study of their impact on  
27 the state's economy and the revenue cost to the commonwealth  
28 and its cities and towns, including, but not limited to, a distribu-  
29 tional analysis showing the impact on taxpayers of varying  
30 income levels, the current practice of other states, any anticipated  
31 change in employment, and ancillary economic activity, and filed  
32 the results of its study with the joint committee on revenue, and  
33 the house and senate committees on ways and means.

1 SECTION 36. Section 4 of said chapter 62, as so appearing, is  
2 hereby amended by striking out subsection (b) and inserting in  
3 place thereof the following subsection:—

4 (b) Part B taxable income shall be taxed at the rate of 5 per cent  
5 for taxable years beginning on or after January 1, 2006.

6 Notwithstanding any special or general law to the contrary, the  
7 provisions of this section shall not take effect until such time as  
8 the department of revenue has furnished a study of their impact  
9 on the state's economy and the revenue cost to the commonwealth  
10 and its cities and towns, including, but not limited to, a distribu-  
11 tional analysis showing the impact on taxpayers of varying  
12 income levels, the current practice of other states, any anticipated  
13 change in employment, and ancillary economic activity, to the  
14 Joint Committee on Revenue, and, without the further approval of  
15 the House and Senate Committees on Ways and Means.

1 SECTION 37. Paragraph (a) of part B of section 3 of said  
2 chapter 62 as appearing in the 2002 Official Edition, is hereby  
3 amended by striking out subparagraph (13) and inserting in place  
4 thereof the following subparagraph:—

5 (13) An amount equal to the amount of the charitable contribu-  
6 tion deduction allowed or allowable to the taxpayer under  
7 section 170 of the Code; provided, however, that, in taxable years  
8 beginning on or after January 1, 2004, no such deduction shall be  
9 allowed in any taxable year unless the personal exemptions pro-  
10 vided in subparagraph (A) of subdivision (1) of subsection (b) of  
11 this section, subparagraph (A) of subdivision (1A) of subsec-  
12 tion (b) of this section, and subparagraph (A) of subdivision (2) of  
13 subsection (b) of this section for such taxable year are the max-  
14 imum allowable amounts set forth in said subparagraphs; and pro-  
15 vided further, that notwithstanding said section 170 of the Code,  
16 no deduction shall be allowed for contributions of household  
17 goods or used clothing, as those items are recognized under said  
18 section 170 of the Code. All requirements, conditions and limita-  
19 tions applicable to charitable contributions under the Code shall  
20 apply for purposes of determining the amount of the deduction  
21 under this subparagraph, except that taxpayers shall not be  
22 required to itemize their deductions in their federal income tax  
23 returns.

24 Notwithstanding any special or general law to the contrary, the  
25 provisions of this section shall not take effect until such time as  
26 the department of revenue has furnished a study of their impact on  
27 the state's economy and the revenue cost to the commonwealth  
28 and its cities and towns, including, but not limited to, a distribu-  
29 tional analysis showing the impact on taxpayers of varying  
30 income levels, the current practice of other states, any anticipated  
31 change in employment, and ancillary economic activity, to the  
32 Joint Committee on Revenue, and, without the further approval of  
33 the House and Senate Committees on Ways and Means.

1 SECTION 38. Section 4 of chapter 62 of the General Laws, as  
2 so appearing, is hereby amended by striking out subsection (b) in  
3 its entirety and inserting in place thereof the following subsec-  
4 tion:—

5 (b) Part B taxable income shall be taxed at the rate of 5 per cent  
6 for taxable years beginning on or after January 1, 2007.

7 Notwithstanding any special or general law to the contrary, the  
8 provisions of this section shall not take effect until such time as  
9 the department of revenue has furnished a study of their impact

10 on the state's economy and the revenue cost to the commonwealth  
 11 and its cities and towns, including, but not limited to, a distribu-  
 12 tional analysis showing the impact on taxpayers of varying  
 13 income levels, the current practice of other states, any anticipated  
 14 change in employment, and ancillary economic activity, to the  
 15 Joint Committee on Revenue, and, without the further approval of  
 16 the House and Senate Committees on Ways and Means.

1 SECTION 39. Subsection (a) of section 3 of chapter 62 is the  
 2 General Laws, as appearing in the 2002 Official Edition, is hereby  
 3 amended by striking out subdivision (13) in its entirety and  
 4 inserting in place thereof the following subdivision:—

5 (13) An amount equal to the amount of the charitable contribu-  
 6 tion deduction allowed or allowable to the taxpayer under  
 7 section 170 of the Code; provided, however, that, in taxable years  
 8 beginning on or after January 1, 2004, no such deduction shall be  
 9 allowed in any taxable year unless the personal exemptions pro-  
 10 vided in subparagraph (A) of subdivision (1) of subsection (b) of  
 11 this section, subparagraph (A) of subdivision (1A) of subsection  
 12 (b) of this section, and subparagraph (A) of subdivision (2) of  
 13 subsection (b) of this section for such taxable year are the max-  
 14 imum allowable amounts set forth in said subparagraphs; and pro-  
 15 vided further, that notwithstanding said section 170 of the Code,  
 16 no deduction shall be allowed for contributions of household  
 17 goods or used clothing, as those items are recognized under said  
 18 section 170 of the Code. All requirements, conditions and limita-  
 19 tions applicable to charitable contributions under the Code shall  
 20 apply for purposes of determining the amount of the deduction  
 21 under this subparagraph, except that taxpayers shall not be  
 22 required to itemize their deductions in their federal income tax  
 23 returns.

24 Notwithstanding any special or general law to the contrary, the  
 25 provisions of this section shall not take effect until such time as  
 26 the department of revenue has furnished a study of their impact on  
 27 the state's economy and the revenue cost to the commonwealth  
 28 and its cities and towns, including, but not limited to, a distribu-  
 29 tional analysis showing the impact on taxpayers of varying  
 30 income levels, the current practice of other states, any anticipated  
 31 change in employment, and ancillary economic activity, to the

32 Joint Committee on Revenue, and, without the further approval of  
 33 the House and Senate Committees on Ways and Means.

1 SECTION 40. Section 4 of chapter 62 of the General Laws, as  
 2 so appearing, is hereby amended by striking out subsection (b) in  
 3 its entirety and inserting in place thereof the following subsec-  
 4 tion:—

5 (b) Part B taxable income shall be taxed at the rate of 5.15 per-  
 6 cent for the taxable year beginning on January 1, 2006, and shall  
 7 be taxed at the rate of 5 percent for taxable years beginning on or  
 8 after January 1, 2007.

9 Notwithstanding any special or general law to the contrary, the  
 10 provisions of this section shall not take effect until such time as  
 11 the department of revenue has furnished a study of their impact on  
 12 the state's economy and the revenue cost to the commonwealth  
 13 and its cities and towns, including, but not limited to, a distribu-  
 14 tional analysis showing the impact on taxpayers of varying  
 15 income levels, the current practice of other states, any anticipated  
 16 change in employment, and ancillary economic activity, to the  
 17 Joint Committee on Revenue, and, without the further approval of  
 18 the House and Senate Committees on Ways and Means.

1 SECTION 41. Sections 35 to 40, inclusive of this act shall not  
 2 take effect until legislation has been filed and passed pursuant to  
 3 Part II, Chapter 1, Section 1, Articles I and II of the Constitution.

1 SECTION 42. Subsection b of section 5A of Chapter 71B of  
 2 the General Laws, as appearing in the 2002 Official Edition, by  
 3 adding after the word "meanings" the following:—

4 "In-district programs," shall consist of special education serv-  
 5 ices provided in a facility used by any school district to educate  
 6 children with disabilities and children without disabilities pur-  
 7 suant to chapter 71 or a separate facility wholly operated by a  
 8 school district exclusively for students who reside in that district  
 9 with significant and severe disabilities whose needs cannot be met  
 10 in a less restrictive setting and who otherwise would be served in  
 11 private special education day or residential schools; provided,  
 12 however, that such separate facilities shall be approved by the

13 department of education before being designated as “in district  
14 programs” for the purpose of this section.”

15 “Out of district programs”, shall consist of special education  
16 services provided in a facility used exclusively for the purpose of  
17 this chapter. And further moves to amend the bill in subsection of  
18 section 5A of Chapter 71B of the General Laws, as appearing in  
19 the 2002 Official Edition, by adding after the words “foundation  
20 budget” the following:— “for the cost of out of district programs  
21 and the costs of programs shall be reimbursed at 75 per cent of all  
22 the approved costs that exceed 3 times the state average per pupil  
23 foundation budget for the cost of in-district programs. Notwith-  
24 standing any general or special law to the contrary, the provisions  
25 of this section shall not take effect until such time as the joint  
26 committee on education has furnished a study of their impact on  
27 the state’s economy and the revenue cost to the commonwealth to  
28 the house and senate committees on ways and means, and  
29 approved by an act of the General Court but said report shall be  
30 filed no later than March 1, 2006.

1 SECTION 43. Notwithstanding any general or special law to  
2 the contrary, for fiscal years 2006 and thereafter, the total amount  
3 allocated for distribution to cities and towns pursuant to  
4 section 35 of chapter 10 of the General Laws shall be the sum of  
5 the amount distributed in fiscal year 2005 and: (i) in fiscal year  
6 2006, 45 per cent of the difference between the fiscal year 2005  
7 distribution and the amount that would otherwise be payable; (ii)  
8 in fiscal year 2007, 65 per cent of the difference between the  
9 fiscal year 2005 distribution and the amount that would otherwise  
10 be payable; (iii) in fiscal year 2008, 85 per cent of the difference  
11 between the 2005 distribution and the amount that would other-  
12 wise be payable. For fiscal year 2009 and thereafter the distribu-  
13 tion of lottery proceeds shall be determined pursuant to section 35  
14 of chapter 10 of the General Laws.

1 SECTION 44. Notwithstanding any general or special law to  
2 the contrary, the commissioner of the department of revenue shall  
3 study the total amount of tax revenue available for appropriation  
4 or supplemental appropriation for fiscal years 1995 through and

5 including 2006; provided further, that such report shall include,  
6 but not be limited to, the level of local aid distributed to the cities  
7 and towns of the commonwealth for each such fiscal year  
8 according to the lottery formula.

1 SECTION 45. The provisions of section 615 of chapter 26 of  
2 the acts of 2003 shall apply in fiscal year 2006.

1 SECTION 46. Except as otherwise specified, this act shall take  
2 effect on July 1, 2005.